

**CARRYING OF WEAPONS, INCLUDING THE APPLICATION
OF CERTAIN WEAPONS AND HANDGUN LICENSE LAWS TO
CERTAIN PERSONS, THE CARRYING OF HANDGUNS BY
LICENSE HOLDERS ON THE PROPERTY OF A STATE
HOSPITAL, AND THE LIABILITY FOR CERTAIN ACTIONS OF
VOLUNTEER EMERGENCY SERVICES PERSONNEL
LICENSED TO CARRY A HANDGUN; PROVIDING A CIVIL
PENALTY**

CHAPTER 1143

H.B. No. 435

AN ACT

relating to the carrying of weapons, including the application of certain weapons and handgun license laws to certain persons, the carrying of handguns by license holders on the property of a state hospital, and the liability for certain actions of volunteer emergency services personnel licensed to carry a handgun; providing a civil penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY SERVICES PERSONNEL. (a) *In this section:*

(1) "Governmental unit" has the meaning assigned by Section 101.001.

(2) "Volunteer emergency services personnel" has the meaning assigned by Section 46.01, Penal Code.

(b) A governmental unit is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(c) The discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

(d) This section may not be construed to waive the immunity from suit or liability of a governmental unit under Chapter 101 or any other law.

SECTION 2. Section 411.179(c), Government Code, is amended to read as follows:

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of *the attorney general* or a judge, justice, *United States attorney*, *assistant United States attorney*, *assistant attorney general*, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4), [or] (6), or (7), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as *the attorney general* or a judge, justice, *United States attorney*, *assistant United States attorney*, *assistant attorney general*, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

SECTION 3. Section 411.1882(a), Government Code, is amended to read as follows:

(a) A person who is serving in this state *as the attorney general* or as a judge or justice of a federal court, as an active judicial officer as defined by Section 411.201, as a *United States attorney*, *assistant United States attorney*, *assistant attorney general*, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney, as a supervision officer as defined

by ~~[Section 2,]~~ Article 42A.001 ~~[42-12]~~, Code of Criminal Procedure, or as a juvenile probation officer may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Texas Commission on Law Enforcement for purposes of Section 1702.1675, Occupations Code, a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns.

SECTION 4. Section 411.201(h), Government Code, is amended to read as follows:

(h) The department shall issue a license to carry a handgun under the authority of this subchapter to *a United States attorney or an assistant United States attorney, or to an ~~[elected]~~ attorney elected or employed to represent ~~[representing]~~ the state in the prosecution of felony cases, who meets the requirements of this section for an active judicial officer.* The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is *a United States attorney or an assistant United States attorney or who is an attorney elected or employed to represent the state in the prosecution of felony cases.*

SECTION 5. The heading to Section 411.209, Government Code, is amended to read as follows:

Sec. 411.209. WRONGFUL EXCLUSION OF ~~[CONCEALED]~~ HANDGUN LICENSE HOLDER.

SECTION 6. Section 411.209, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (i) to read as follows:

(a) *Except as provided by Subsection (i), a [A] state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a ~~[concealed handgun]~~ license to carry a handgun, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.*

(d) *A resident ~~[citizen]~~ of this state or a person licensed to carry a ~~[concealed]~~ handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a) if the resident ~~[citizen]~~ or person provides the agency or subdivision a written notice that describes the violation and specific location of the sign found to be in violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. A complaint filed under this subsection must include evidence of the violation and a copy of the written notice.*

(i) *Subsection (a) does not apply to a written notice provided by a state hospital under Section 552.002, Health and Safety Code.*

SECTION 7. Subchapter A, Chapter 552, Health and Safety Code, is amended by adding Section 552.002 to read as follows:

Sec. 552.002. CARRYING OF HANDGUN BY LICENSE HOLDER IN STATE HOSPITAL. (a) *In this section:*

- (1) *"License holder" has the meaning assigned by Section 46.035(f), Penal Code.*
- (2) *"State hospital" means the following facilities:*
 - (A) *the Austin State Hospital;*
 - (B) *the Big Spring State Hospital;*
 - (C) *the El Paso Psychiatric Center;*
 - (D) *the Kerrville State Hospital;*
 - (E) *the North Texas State Hospital;*
 - (F) *the Rio Grande State Center;*
 - (G) *the Rusk State Hospital;*

(H) the San Antonio State Hospital;

(I) the Terrell State Hospital; and

(J) the Waco Center for Youth.

(3) "Written notice" means a sign that is posted on property and that:

(A) includes in both English and Spanish written language identical to the following: "Pursuant to Section 552.002, Health and Safety Code (carrying of handgun by license holder in state hospital), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun";

(B) appears in contrasting colors with block letters at least one inch in height; and

(C) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(b) A state hospital may prohibit a license holder from carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of the hospital by providing written notice.

(c) A license holder who carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of a state hospital at which written notice is provided is liable for a civil penalty in the amount of:

(1) \$100 for the first violation; or

(2) \$500 for the second or subsequent violation.

(d) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

SECTION 8. Section 30.06, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) It is a defense to prosecution under this section that the license holder is volunteer emergency services personnel, as defined by Section 46.01.

SECTION 9. Section 30.07, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) It is a defense to prosecution under this section that the license holder is volunteer emergency services personnel, as defined by Section 46.01.

SECTION 10. Section 46.01, Penal Code, is amended by adding Subdivision (18) to read as follows:

(18) "Volunteer emergency services personnel" includes a volunteer firefighter, an emergency medical services volunteer as defined by Section 773.003, Health and Safety Code, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Section 1701.001, Occupations Code, who is performing law enforcement duties.

SECTION 11. Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(h-1) It is a defense to prosecution under Subsections (b)(1), (2), (4), (5), and (6) [~~(4)-(6)~~], and (c) that at the time of the commission of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section 411.201, Government Code; or

(3) the attorney general or a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

SECTION 12. Section 46.035, Penal Code, is amended by adding Subsection (m) to read as follows:

(m) *It is a defense to prosecution under Subsections (b) and (c) that the actor is volunteer emergency services personnel engaged in providing emergency services.*

SECTION 13. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;

(6) *the attorney general or a United States attorney*, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(7) *an assistant United States attorney, assistant attorney general*, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; ~~or~~

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code; or

(10) *a person who is volunteer emergency services personnel if the person is:*

(A) *carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code; and*

(B) engaged in providing emergency services.

SECTION 14. The changes in law made by this Act to Sections 30.06 and 30.07 and Chapter 46, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 15. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 16. This Act takes effect September 1, 2017.

Passed by the House on May 3, 2017: Yeas 144, Nays 2, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 435 on May 26, 2017: Yeas 136, Nays 9, 2 present, not voting; passed by the Senate, with amendments, on May 24, 2017: Yeas 28, Nays 3.

Approved June 15, 2017.

Effective September 1, 2017.

OPERATION OF PUBLIC SCHOOLS ON MEMORIAL DAY

CHAPTER 1144

H.B. No. 441

AN ACT

relating to operation of public schools on Memorial Day.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 25.081, Education Code, is amended by adding Subsection (f) to read as follows:

(f) A school district may not provide student instruction on Memorial Day. If a school district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the number of minutes required under Subsection (a).

SECTION 2. This Act applies beginning with the 2017–2018 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed by the House on May 4, 2017: Yeas 143, Nays 0, 2 present, not voting; passed by the Senate on May 24, 2017: Yeas 31, Nays 0.

Approved June 15, 2017.

Effective June 15, 2017.